

**IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF WEST VIRGINIA
WHEELING**

PATRICK RAY WALL,

Plaintiff,

v.

**CIVIL ACTION NO. 5:12-CV-22
(BAILEY)**

**SCOTT VILLERS, Acting Administrator,
Tygart Valley Regional Jail; and
ANDREW HOWLETT, Chronic Care
Physician, Tygart Valley Regional Jail,**

Defendants.

ORDER ADOPTING REPORT AND RECOMMENDATION

On this day, the above-styled matter came before this Court for consideration of the Report and Recommendation of United States Magistrate Judge James E. Seibert [Doc. 35]. Pursuant to this Court's Local Rules, this action was referred to Magistrate Judge Seibert for submission of a proposed report and a recommendation ("R & R"). Magistrate Judge Seibert filed his R&R on November 14, 2012 [Doc. 35].

Pursuant to 28 U.S.C. § 636 (b)(1)(c), this Court is required to make a *de novo* review of those portions of the magistrate judge's findings to which objection is made. However, the Court is not required to review, under a *de novo* or any other standard, the factual or legal conclusions of the magistrate judge as to those portions of the findings or recommendation to which no objections are addressed. ***Thomas v. Arn***, 474 U.S. 140, 150 (1985). In addition, failure to file timely objections constitutes a waiver of *de novo*

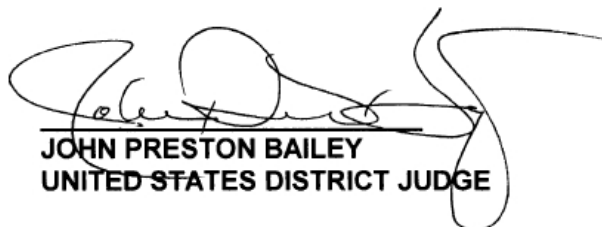
review and the right to appeal this Court's Order. 28 U.S.C. § 636(b)(1); **Snyder v. Ridenour**, 889 F.2d 1363, 1366 (4th Cir. 1989); **United States v. Schronce**, 727 F.2d 91, 94 (4th Cir. 1984). Here, objections to Magistrate Judge Seibert's R & R were due within fourteen (14) days of receipt, pursuant to 28 U.S.C. § 636(b)(1) and Fed.R.Civ.P. 72(b). The docket reflects that service was accepted on November 17, 2012 [Doc. 36]. No objections have been filed. Accordingly, this Court will review the R&R for clear error.

Upon careful review of the above, it is the opinion of this Court that the **Report and Recommendation [Doc. 35]** should be, and is, hereby **ORDERED ADOPTED** for the reasons more fully stated in the magistrate judge's report. Defendant West Virginia Regional Jail Authority's and Scott Villers' Motion to Dismiss in Lieu of Answer **[Doc. 18]** is **GRANTED**. Accordingly, this Court **ORDERS** the plaintiff's § 1983 claims **[Doc. 1]** be **DISMISSED WITH PREJUDICE** for failure to state a claim upon which relief can be granted, for failure to timely effect service, and because this matter is moot. This Court **DIRECTS** the Clerk to enter judgment for the defendants and to **STRIKE** this case from the active docket of this Court.

It is so **ORDERED**.

The Clerk is directed to transmit copies of this Order to any counsel of record and to mail a copy to the *pro se* plaintiff.

DATED: December 10, 2012.


JOHN PRESTON BAILEY
UNITED STATES DISTRICT JUDGE